

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

OHIO MIDLAND, INC., et al.,

Plaintiffs,

v.

PROCTOR, et al.,

Defendants.

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Case No. 2:05-cv-1097

JUDGE ALGENON L. MARBLEY

OPINION & ORDER

This matter comes before this Court on Defendant Norfolk Southern Railway Co.’s Motion to Distribute and Release Cash Deposit. (ECF No. 259). For the reasons stated below, this Motion is **GRANTED**.

On June 23, 2020, this Court issued an Opinion and Order requiring the parties to pay the costs of the special master, David Kopech, within sixty (60) days. (ECF No. 248). Norfolk filed a timely Notice of Appeal (ECF No. 251) and moved this Court to accept a cash deposit to the Clerk of the Southern District of Ohio “to stay execution of the judgment pending appeal.” (ECF No. 250). Norfolk deposited \$8,420.00—the amount owed in special master fees—and two years of interest at 5 percent per year for a total deposit of \$9,262.00. (*Id.*). This Court approved the proposed deposit and stayed execution of the judgment during the pendency of the appeal. (ECF No. 252).

Following a remand by the Sixth Circuit solely pertaining to the allocation of special master fees, this Court ruled that Norfolk Southern would be responsible for \$3,789.00 of Mr. Kopech’s special master fees. (ECF No. 258). Norfolk Southern seeks for its payment to be made directly

from its cash deposit with the Clerk of Court to Mr. Kopech, with the remaining balance to be remitted to Norfolk Southern.

Norfolk Southern's Motion (ECF No. 259) is **GRANTED**. The Clerk of Court for the Southern District of Ohio shall issue payment from Norfolk Southern's \$9,262.00 deposit from on or about August 14, 2020 as follows:


\$3,789.00 payable to:

David Kopech
P.O. Box 1103
Worthington, Ohio 43085-1103

Remaining balance payable to:

Norfolk Southern Railway Co.
c/o Eastman & Smith, Ltd.
P.O. Box 0032
Toledo, Ohio 43699-0032.

IT IS SO ORDERED.



ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

DATED: August 30, 2021